

Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC)
Referrals of Injured Employees for Vocational Rehabilitation Services to the
Department of Assistive and Rehabilitative Services (DARS)

Texas Labor Code, Sections 408.150 and 409.012 and 28 Texas Administrative Code Section 136.1 require TDI-DWC to identify injured employees that would be assisted by vocational rehabilitation services and refer those injured employees to DARS.

Types of TDI-DWC Vocational Rehabilitation Referrals:

- Automatic referrals using TDI-DWC claim data based on certain referral triggers
- Manual referrals made by TDI-DWC staff based on individual discussions with injured employees

Automatic Referral Triggers:

- Claims with equal to or greater than 12 weeks of Temporary Income Benefits (TIBs)
- Claims with a 15% or greater impairment rating assigned
- Claims with the criteria laid out in TDI-DWC Rule 136.1 – provided below

Total Number of Referrals Made by TDI-DWC Staff to DARS
Fiscal Years 2009-2012

Referral FY	Total # of TDI-DWC Referrals
2009	26,960
2010	23,583
2011	21,188
2012	26,380

Source: Texas Department of Insurance, Division of Workers' Compensation, 2012.

TDI-DWC Rule 136.1 DARS Referral Criteria:

- (1) an amputation of:
 - (A) an arm or leg;
 - (B) three fingers or more; or
 - (C) the large toe or one-third of the foot or more;
- (2) the loss of use of an arm or leg;
- (3) a permanent spinal cord injury;
- (4) a head injury;
- (5) a heart attack or heart disease;
- (6) an occupational disease;
- (7) blindness or significant vision loss;
- (8) severe or extensive burns;
- (9) any other condition that indicates an impairment is likely; or
- (10) any injury resulting in more than 30 days lost time. Such injury shall be reviewed and a determination made as to the degree of impairment and the appropriateness of vocational rehabilitation services.

Statutory Authority for TDI-DWC Referrals to DARS (Texas Labor Code Citations)

Sec. 408.150. VOCATIONAL REHABILITATION.

- (a) The division shall refer an employee to the Department of Assistive and Rehabilitative Services with a recommendation for appropriate services if the division determines that an employee could be materially assisted by vocational rehabilitation or training in returning to employment or returning to employment more nearly approximating the employee's preinjury employment. The division shall also notify insurance carriers of the need for vocational rehabilitation or training services. The insurance carrier may provide services through a private provider of vocational rehabilitation services under Section 409.012.
- (b) An employee who refuses services or refuses to cooperate with services provided under this section by the Department of Assistive and Rehabilitative Services or a private provider loses entitlement to supplemental income benefits.

Sec. 409.012. VOCATIONAL REHABILITATION INFORMATION.

- (a) The division shall analyze each report of injury received from an employer under this chapter to determine whether the injured employee would be assisted by vocational rehabilitation.
- (b) If the division determines that an injured employee would be assisted by vocational rehabilitation, the division shall notify:
 - (1) the injured employee in writing of the services and facilities available through the Department of Assistive and Rehabilitative Services and private providers of vocational rehabilitation; and
 - (2) the Department of Assistive and Rehabilitative Services and the affected insurance carrier that the injured employee has been identified as one who could be assisted by vocational rehabilitation.
- (c) The division shall cooperate with the office of injured employee counsel, the Department of Assistive and Rehabilitative Services, and private providers of vocational rehabilitation in the provision of services and facilities to employees by the Department of Assistive and Rehabilitative Services.
- (d) A private provider of vocational rehabilitation services may register with the division.
- (e) The commissioner by rule may require that a private provider of vocational rehabilitation services maintain certain credentials and qualifications in order to provide services in connection with a workers' compensation insurance claim.
- (f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(127), eff. June 17, 2011.